

**To the Mayor and Members of the City Council****January 24, 2012**

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SUBJECT: RAILROAD COMMISSION HEARING TO CONSIDER INFORMAL COMMENTS ON ADOPTION OF FORMAL RULE REGARDING THE MINERAL INTEREST POOLING ACT

The Railroad Commission of Texas sent notice to the City regarding a Hearing to be held on Monday, January 30, 2012 at 9:00 a.m. at the William B. Travis State Office Building, Room 1-111, 1701 North Congress Avenue in Austin to consider informal comments on whether the Commission should adopt a formal rule to implement the provisions of the Mineral Interest Pooling Act.

The Mineral Interest Pooling Act, sometimes called "Forced Pooling", as used by gas drillers in the Barnett Shale, requires mineral property owners to choose one of three options: 1) lease property at terms set by the gas drilling company; 2) participate as a Working Interest owner; or 3) participate in a Farmout Agreement. The Working Interest owner participation choice requires upfront payment of the proportionate share of the well costs prior to commencement of drilling operations. In the Farmout Agreement participation choice the mineral interest owner conveys a percentage of the mineral interest and accompanying revenues to the gas drilling company until well costs are paid. Upon payment of all well costs the mineral interest is converted to a working interest and the proportionate share of the mineral interest revenue is distributed.

On several occasions the City of Fort Worth as a mineral property owner and as Trustee for tax foreclosed properties has been put on notice by a gas company that the Mineral Interest Pooling Act was being invoked in order to complete a drilling unit.

Staff has identified several issues of legal consequence to City owned or held properties that result from the use of the Mineral Interest Pooling Act by gas drillers in the Barnett Shale and will provide comment to the Texas Railroad Commission regarding the following issues:

- Tax foreclosed properties cannot be leased for mineral development while held in trust by the City due to a 1951 Texas Attorney General Opinion which prevents mineral leasing of such properties.
- Some properties donated to the City include reversionary language in the deed which precludes leasing for natural gas development. This is most common in deeds for property donated to the City for park use.
- The options of participating as a Working Interest owner or in a Farmout Agreement also include financial and personal liability.

Further information can be obtained from Christa Reynolds, Senior Assistant City Attorney (X8984) or Jean Petr, Gas Lease Program Manager (X8367).

Tom Higgins
City Manager